

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6381

BILL NUMBER: SB 414

NOTE PREPARED: Jan 17, 2014

BILL AMENDED:

SUBJECT: Health Facility Employee Criminal Background Checks.

FIRST AUTHOR: Sen. Broden

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☐ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: This bill requires a health facility to obtain a national criminal history background check or an expanded criminal history check for the health facility's employees. The bill provides immunity to persons: (1) for denying or terminating employment because of another person's criminal history; or (2) for reporting to or participating in the proceedings of the State Department of Health or the registry of nurse aides.

Effective Date: July 1, 2014.

Explanation of State Expenditures: This bill could increase the workload of the Indiana State Police (ISP) to process additional national criminal history background checks. Increases in workload would be financed from fees received for processing these background checks.

The bill could also increase the workload of the Indiana State Department of Health (ISDH) to ensure that health facilities do not employ individuals who have disqualifying offenses listed in the bill. The ISDH reports that implementation of the bill's provisions can be performed during annual health facility certification inspections. As a result, the requirements are expected to be accomplished within existing resource and funding levels.

Explanation of State Revenues: *Summary:* An estimated 4,100 individuals could request either an expanded or a national criminal history background check annually. If 50% of this population requests a national criminal history background check, annual revenue to the General Fund could increase by approximately \$61,500. Actual increases will depend on how many hospitals already maintain policies that require new employees to obtain a national criminal history background check.

This bill also creates new penalties, a Class A misdemeanor and two Class A infractions, which could increase state revenue received from fines and judgments.

Additional Information:

National Criminal History Background Check: A national criminal history background check is obtained through the ISP and requires a search of the criminal history record system maintained by the Federal Bureau of Investigation. For every national criminal history background check performed in the state, \$15 is forwarded to the state General Fund.

Expanded Criminal History Background Check: An expanded criminal history check includes a search of: (1) all the records maintained by all counties in Indiana and (2) the records maintained by all counties or similar government units in another state if the individual resided in another state. No revenue is forwarded to the state for expanded criminal history background checks.

Revenue From Criminal Background Checks: The ISDH reports there is a total of 645 health facilities that will be impacted by this bill. Assuming a 15% annual staff turnover rate, approximately 4,100 new health facility staff would be subject to the bill's requirements in FY 2015. It is unknown what percentage of background requests will be national criminal history or expanded criminal history. If 50% of these requests are for a national criminal history background check, the General Fund could receive approximately \$61,500 in annual revenue.

Actual increases in state revenue will depend on (1) any price difference between an expanded and national criminal history background check, (2) if one method to request criminal history information is more convenient than another, and (3) how many health facilities currently require new employees to obtain either an expanded or national criminal history background check. Data from these factors is unavailable.

Disqualifying Offenses: The bill also specifies disqualifying criminal convictions for health facility employment. These provisions will apply to all health facility employees. However, the bill only requires criminal history information to be obtained for new employees. Criminal history information could be requested for current employees who are suspected of having a disqualifying criminal conviction. In instances where criminal history information is requested for current employees, state revenue from national criminal history information fees could increase.

Penalty Provisions: The bill establishes two Class A infractions for (1) failing to terminate an employee with a disqualifying criminal offense and (2) failing to request criminal information for new employees within specified time frames. To the extent these provisions are violated, the number of Class A infractions (and associated revenue from fines) will increase. The maximum judgment for a Class A infraction is \$10,000, which would be deposited in the state General Fund. However, any additional revenue is likely to be small.

The bill also establishes a Class A misdemeanor if a health facility operator has been convicted of a disqualifying offense and knowingly or intentionally operates a health care facility. If additional court cases occur and fines are collected, revenue to both the Common School Fund (from fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class A misdemeanor is \$5,000. However, any additional revenue would likely be small.

Explanation of Local Expenditures: *Penalty Provision:* A Class A misdemeanor is punishable by up to one

year in jail.

Explanation of Local Revenues: *Penalty Provision:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, any change in revenue would likely be small.

State Agencies Affected: ISP, ISDH.

Local Agencies Affected:

Information Sources: Scott Zarazee, ISDH; Indiana Department of Workforce Development employment data for 2013; *2013 National Healthcare and RN Retention Report*, Nursing Solutions, Inc.

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